

Interim Decision #1357

MATTER OF BOUREAU

Application for PERMISSION TO REAPPLY

A-15207589

Decided by Acting Regional Commissioner June 1, 1964

Permission to reapply for admission, pursuant to section 212(a)(17) of the Immigration and Nationality Act as a crewman following deportation in 1963 is granted a *bona fide* alien crewman who has been sailing to and from the United States constantly since 1961 and who during that time never abandoned his calling as a crewman or worked ashore while in the United States.

The application was denied by the District Director, Miami, Florida, on April 29, 1964. It is now considered on appeal.

The applicant is a 24-year-old native of Haiti. He was deported from the United States on September 19, 1963. He had arrived in the United States as a crewman on a vessel and had been given conditional permission to land. The vessel was going into dry dock and the steamship company operating the vessel sought to return 16 Haitian crewmen to Haiti. There were 13 of the Haitians including the applicant, who objected to being returned to Haiti because of political and economic conditions there. An Immigration Officer, upon being advised by the applicant that he would not voluntarily return to Haiti, revoked his conditional permit to land as a crewman and ordered the master of the vessel to deport him from the United States pursuant to section 252(b) of the Immigration and Nationality Act. Deportation followed.

The District Director has denied the application for the following reasons:

You are not a *bona fide* non-immigrant in that at the time of the revocation of your conditional landing permit you told an Officer of this Service that you would not return to Haiti, your native country, and you have not established that you have an unrelinquished, legal domicile in any other country.

Section 101(a)(15)(D) of the Immigration and Nationality Act defines a nonimmigrant crewman as follows:

* * * an alien crewman serving in good faith as such in any capacity required for normal operation and service on board a vessel (other than a fishing vessel

Interim Decision #1357

having its home port or an operating base in the United States) or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

Notice is taken of the fact that crewmen on vessels engage in a life at sea, living aboard the vessels and that a residence or domicile may be lacking while they are engaged in that occupation. The applicant has been sailing to and from the United States constantly since 1961. There is no evidence of record that he ever abandoned his calling as a crewman or worked ashore while in the United States. He now seeks permission to reapply for temporary entry as a crewman when his ship is in the ports of the United States. It is found that the applicant is a *bona fide* crewman and that permission should be granted to him to reapply for admission. The appeal will therefore be sustained.

ORDER: The decision of the District Director of Miami, Florida, is reversed and the application is granted.